

# THE CASE of the FILAZARS

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Their MAJESTIES Court of *Common-Pleas* at *Westminster*.



**T**HE Offices of the *Filazars* are as Ancient as the said Court, and are given or disposed of to such Persons who are fitly qualified for the same (by the Lord Chief Justice of that Court for the time being) for Life.

In Right of the said Offices their Predecessors made all manner of Process, Recorded Appearances of Defendants, and also entred Imparlanes and Issues, &c. in which there were not special Pleadings, as well as the *Prothonotaries*, (as appears by the Records of the said Court) so that the Profit of these Offices were considerable, until *Mich. 14 Jac. 1.* when the *Prothonotaries* of the said Court, by their Power and Interest, obtained a Rule of Court which stript the *Filazars* of all but the Making and Awarding of Mesne Process before Appearance in Chief, and the Recording of the Appearances of Defendants, &c.

The *Capias* by Continuance, *Alias*, and *Pluries Capias*, being Mesne Process, are by a Clause in the Bill for the Preventing of Escapes, &c. now depending in this Honourable House, rendred so useless, as that they are in a manner taken away, by the new Method or Course of Practice therein prescribed, which is to this effect, *viz.*

*That upon the serving of such Defendants who abscond, or cannot be easily Arrested with a Copy of the Capias or Process which issues to Arrest them. &c. upon Oath made thereof, and Motion in Court upon a Declaration left in the Office, &c. there shall be a Rule for Judgment against them, unless they appear and plead in such short time as the said Bill directs.*

Which Method or Course of Practice must very much increase the Fees of the *Prothonotaries* Offices of the said Court, and inevitably take away one half of the Profits of the present *Filazars* Offices, which are their Freeholds; the said Writs so to be as aforesaid taken from them, being the greatest part of the Process now left them.

It stands with the Rule of Equity and Justice, that all Mens Freeholds be <sup>†</sup> saved to them: And when for the Publick Good they have been taken away, there hath been always a \* Compensation given, as appears by divers Statutes.

*Objection.* That the said *Filazars* have a Satisfaction made them by the Bill, which orders and directs, That the Defendant's Appearance shall be entred with the proper Officer, &c.

*Answer.* That must be in Cases where they appear; but most of the Judgments intended by the Bill will be where they do not appear; and in such Cases they cannot be entred: And if that were provided for, yet such Appearances can be no Recompence, because they were always the Right of the *Filazar*.

*Objection.* The Process of the *Alias* and *Pluries Capias* are dilatory, and a Burthen to the Subject.

*Answer.* || The Delay such Writs give, may be remedied, by taking away the Fifteen Days between the *Teste* and Return of them, as was done on Writs of *Habeas corpora*, *Distring. Jur. Capias* & *Testatum* after Judgment, and *Fieri fac.*

The Fees of these Writs are but 6 *d.* apiece, which cannot be reasonably thought burthensom to the Subject, and have always been esteemed in Law very useful to prevent Surprise on Defendants before they can have the Benefit of the Courts of Equity to save them in hard and difficult Cases from the Rigour of the Common Law.

It is therefore hoped, That this Honourable House will reject the Clause in the said Bill, which destroys the said Process, and lessens the Profits of the said *Filazars* Offices; or give them the Affidavit and Judgments to be obtained as aforesaid (with such Fees for the same as may answer the loss of the said Process) by way of Compensation, rather than suffer the same to be with the *Prothonotaries* of the said Court, who lose not the Profit of any of their Process by the said Bill; Or that the said Rule of Court made in *Michaelmas Term 14 Jac. 1.* may be declared void, and against Law, as the other Rules mentioned in the said Bill are, and the *Filazars* impowered to act as their Predecessors did before the said Rule of *Mich. 14 Jac. 1.*

† 27 H. 8. c. 28.  
8. c. 13. § 4.  
15, 17, 20, 26.  
32 H. 8. c. 20.  
§ 8, 13. 37 H.  
8. c. 4. § 13.  
1 E. 6. c. 14.  
§ 21. 35 E. 1. c.  
3. § 4. 34 &  
35 H. 8. c. 19.  
7 J. 1. c. 19.  
§ 2.  
\* 31 H. 8. c.  
13. § 13. 37  
H. 8. c. 4. § 18.  
27 C. 2. § 3.  
4, 5. 35 H. 8. c.  
10. § 2. 3 J.  
1. c. 18. 7 J. 1.  
c. 9. § 3. & c.  
19. § 3. 19 C.  
2. c. 3. § 15.  
25. 22 C. 2. c.  
11. § 4, 49, 80.  
25 C. 2. c. 10.  
§ 3. 29 C. 2. c.  
4. § 5.

|| 13 C. 2. c. 2.  
c. 2.